

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

In Re:	)	CHAPTER 13
	)	
William S Jackson, Jr.	)	CASE NO.:09-16584-pmc
	)	
	)	JUDGE PAT E MORGENSTERN-
	)	CLARREN
Debtors.	)	
	)	<b><u>DEBTORS- MOTION FOR AN ORDER</u></b>
	)	<b><u>COMPELLING CREDITOR HAZEL</u></b>
	)	<b><u>FINANCIAL LTD TO APPEAR AND</u></b>
	)	<b><u>SHOW CAUSE WHY THEY SHOULD</u></b>
	)	<b><u>NOT BE FOUND IN CONTEMPT OF</u></b>
	)	<b><u>COURT FOR WILLFULLY &amp;</u></b>
	)	<b><u>INTENTIONALLY VIOLATING 11 U.S.C.</u></b>
		<b><u>' 362(a)</u></b>

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Now come the Debtors, William S Jackson, by and through attorney, Aaron T. Kimbrell, and respectfully request this Court grant the Motion for an Order Compelling Creditor, Hazel Financial LTD. To Appear and Show Cause Why They Should Not Be Held In Contempt of Court for Willfully & Intentionally Violating 11 U.S.C. ' 362(a) for the reasons set for in the accompanying memorandum, which is attached hereto and incorporated herein.

Respectfully Submitted,

/s/ Aaron T. Kimbrell  
Aaron T. Kimbrell (0080406)  
Rauser and Associates  
Attorney for Debtors  
614 West Superior Ave., Suite 950  
Cleveland, Ohio 44113

**MEMORANDUM**

1. The present Chapter 13 bankruptcy was filed on July 17, 2009.
2. Schedule B of the bankruptcy petition lists a 1993 Mack CH6 Semi Truck (hereinafter referred to as Avehicle 1@) owned by the Debtors and 1995 Mack CH6 Semi Truck (hereinafter referred to as Avehicle 2@). Schedule D of the bankruptcy petition lists that 1993 Mack CH6 Semi Truck secures a loan held by Creditor, Hazel Financial LTD. (hereinafter referred to as ACreditor@)
3. Article 4B of the proposed Chapter 13 plan lists the debt owed to Creditor as a secured claim to be paid through Debtors= bankruptcy.
4. Prior to the bankruptcy filing, Creditor repossessed the vehicle 1 and vehicle 2. on July 5, 2009. Debtor does not believe Creditor holds a lien on vehicle 2.
5. On July 17, 2009 Debtor's Attorney contacted Detective Amy Ellis of the Richfield Police Department. Detective Ellis had been assisting Debtor with the issues of the repossession.
6. On July 28<sup>th</sup>, a representative from Debtor's Counsel's Office contacted Leslie Apisdorf at Hazel Financial LTD to have the vehicle returned to Debtor. Creditor told representative and then Counsel that the vehicle was repossessed on July 5<sup>th</sup>, 2009 and was sold on July 6<sup>th</sup>, 2009.
7. Debtor's Counsel requested details of the sale of the vehicle and provided phone number, fax number, and mailing address to Creditor. To date no details of the sale have been provided.

8. Debtor believes Creditor may still have possession or be able to retain possession of Vehicle 1 and Vehicle 2. Creditor has not returned the vehicle despite actual notice of the Debtors= bankruptcy and the corresponding automatic stay imposed by 11 U.S.C. ' 362.
9. Debtor=s counsel provided Creditor with actual notice of the bankruptcy via telephone on July 28, 2009 and by facsimile on July 28, 2009.
10. Debtor is dependant on the use of Vehicle 1 and Vehicle 2 for employment. He will not be able to work until the vehicles are returned or replaced.
11. Creditor obtained actual notice of Debtors= chapter 13 bankruptcy on July 28, 2009. Creditor=s refusal to release the vehicle despite the request for the vehicles return constitutes a blatant, willful and intentional violation of the automatic state imposed by 11 U.S.C. ' 362(a).
12. Creditor did not give any notice to Debtor of sale nor the opportunity to redeem the vehicles.

WHEREFORE, Debtors respectfully request this Court enter an Order Compelling Creditors, Hazel Financial LTD To Appear and Show Cause Why They Should Not Be Held In Contempt of Court for Willfully & Intentionally Violating 11 U.S.C. ' 362(a). Debtors further respectfully requests that this Court=s Order specify the following:

1. Award Debtors compensatory damages and punitive damages in the amount of Five Hundred Dollars (\$500.00) per day for every day since the bankruptcy filing which Creditor remained in unlawful possession of the 1993 Mack CH6 Semi Truck and 1995 Mack CH6 Semi Truck.
2. Award Actual Damages incurred by Debtor for the illegal sale or illegal possession of the 1993 Mack CH6 Semi Truck and 1995 Mack CH6 Semi Truck.

3. If possible, order the return of the 1993 Mack CH6 Semi Truck and 1995 Mack CH6 Semi Truck.
4. Award the Debtors attorney fees and any other sanction this Court deems appropriate.

Respectfully Submitted,

/s/ Aaron T. Kimbrell  
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Rauser and Associates  
Attorney for Debtors  
614 West Superior Ave., Suite 950  
Cleveland, Ohio 44113  
(216) 263-6200

## **CERTIFICATE OF SERVICE**

I hereby certify that the foregoing has been served upon the following by mailing a copy hereof by first class U.S. mail or Electronic Filing on this 19th day of August, 2009.

**Debtor(s):**

William S Jackson, Jr.  
2904 Woodhill Road  
Cleveland, OH 44104

**Attorney for Debtor(s):**

Aaron T. Kimbrell  
(Served Electronically)

**Trustee:**

Craig Shopneck  
(Served Electronically)

**U.S. Trustee:**

(Served Electronically)

**Creditor:**

Hazel Financial  
2636 Brecksville Rd.  
Richfield, OH 44286

**Agent of Service for Hazel Financial LTD.**

Leslie D Apisdorf  
8071 Music Street  
Chargin Falls OH 44022

**Attorney for Hazel Financial LTD.**

Steven S Davis  
1370 Ontario Street, #450  
Cleveland, OH 44113

/s/ Aaron T. Kimbrell  
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